

No.NY/PM/881/4/2014
Permanent Mission of India to the UN
New York

REQUEST FOR PROPOSAL (RFP)
FOR SELECTION OF CONSULTANT FOR
FACADE INSPECTION AND FILING LOCAL LAW 11
COMPLIANCE REPORT

The President of India acting through the Permanent Representative of India to the United Nations, New York, requests proposals in sealed envelopes from appropriately qualified and adequately experienced New York State licensed Professional Engineers (PE) or Registered Architects (Qualified Exterior Wall Inspectors) for conducting facade inspection and filing Local Law 11 compliance report. The proposal (bids) duly completed in all respect, along with required enclosures, must reach office of **The Head of Chancery, Permanent Mission of India to the UN, 235 East 43rd Street, New York, NY 10017** Tel: 212-490-9671, Email: property@indiaun.net **on or before 1700 hrs on 31 May 2019**. The detailed RFP document along with its annexure may be downloaded from Central Procurement Portal <https://eprocure.gov.in/cppp/> and also the official website of the Permanent Mission of India to the UN at <https://pminewyork.gov.in/tenderarchive>

The objective of this RFP is to select an appropriately qualified and adequately experienced Engineer/Architect by the Permanent Mission of India to the UN in New York for the project: Facade Inspection and Filing Local Law 11 Compliance Report.

Scope of Work:

The project shall consist of:

- addressing the SWARMP/UNSAFE conditions at the property as per the Initial Report filed with the DOB in 2014;
- Visit project site, review the condition and report any new FISP conditions;
- Compile necessary drawings and specifications for competitive bidding and suitable for filing with DOB;
- Prepare Plans, Specifications and Bid Documents/Form of Proposal for the repair work to address the SWARMP/Unsafe conditions;
- Obtain extension of time to file reports, if necessary;
- Conduct a walk-thru for qualified contractors;
- Analyze the bids from technical angle and advise the Mission on selection of a

- contractor after thorough review of the contractor's qualifications, financial resources, insurance policies, expertise, etc.;
- Prepare a Site Safety Plan and provide the services of a Site Safety Engineer (if required);
 - Conduct project meetings; Make site visits at regular intervals to monitor contractor's operations to determine if the work is proceeding in accordance with the agreed time-line;
 - Prepare 'punch-lists' to correct deficiencies in work performed;
 - Issue procedural change orders, as required, to reflect minor alterations in project scope as necessitated by field conditions;
 - Perform balcony railings, terrace railings, roof railings, fire escapes, walkways and any other associated handrail assemblies inspection during construction administrative services;
 - Sign-off completed construction, prepare and file final (up-to-date) compliance report with DOB and obtain necessary certificate of completion;
 - Assist in clearing violations, if required;
 - Any other work that may required to fulfill the DOB requirements to file up-to-date compliance report.

Location and description of Property:

A 26-storey Government of India owned building located at 235 East 43rd Street, New York, NY 10017.

Site visit: Physical visit to the site is advisable to have a general idea about the extent of work required and the amount of involvement by the Engineer/Architect. Interested firms can visit the site from 10:00 – 17:00 hrs on weekdays after prior appointment with the Property Section (Email: property@indiaun.net).

Submission: The proposals (bids) should be submitted in two parts: (i) Technical Bid, which should contain the documents establishing the technical eligibility of the applicant and other documents required to establish sound financial condition, as per terms & conditions of this RFP; and (ii) Financial Bid (Offer of Fee), which should be as per the format given at the end of this RFP. Please note that the Offer of Fee (strictly in a sealed envelope B) must quote a percentage of the project cost, which will be either the estimated cost or the tendered cost, whichever is lower. The last date of submission of sealed bids is 1700 hrs on 31 May 2019 in the office of **The Head of Chancery, Permanent Mission of India to the UN, 235 East 43rd Street, New York, NY 10017** Tel: 212-490-9671, Email: property@indiaun.net . Technical bids will be opened at 1100 hrs on 6 June 2019 in the Permanent Mission of India to the UN.

- **Earnest Money Deposit/Bid Securing Declaration–**

i) The bidder shall submit a Demand draft or Banker's cheque or Bank Guarantee amounting to US \$ 5,000.00 or Bid Securing Declaration (**Annexure-I**).

ii) Failure to honour the Bid Securing Declaration shall render the bidder ineligible to participate in any tender on behalf of Government of India, for a period of two years from the date of publication of the Tender in which the default has happened.

Validity of Bids: The bids shall remain valid for a period of 180 days from the opening of bids or up to any mutually agreed extended period.

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(This may be submitted by the bidder in lieu of EMD)

Bids Securing Declaration

I/we accept that if I/we withdraw or modify Bids during the period of validity or if I/we are awarded the contract and I/we fail to sign the contract, or to submit a performance security before the deadline defined in the request for bids document, I/we will be suspended for the period of time specified in the request for bid document from being eligible to submit Bids for contracts with the Government of India.

Date:

Place:

Signature:

Name:

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Statement of Objective

A 26-storey Government of India owned building located at 235 East 43rd Street, New York, NY 10017

The project shall consist of:

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- Visit project site, review the condition and report any new FISP conditions;
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- Prepare Plans, Specifications and Bid Documents/Form of Proposal for the repair work to address the SWARMP/Unsafe conditions;
- Obtain extension of time to file reports, if necessary;
- Conduct a walk-thru for qualified contractors;
- Analyze the bids from technical angle and advise the Mission on selection of a contractor after thorough review of the contractor's qualifications, financial resources, insurance policies, expertise, etc.;
- Prepare a Site Safety Plan and provide the services of a Site Safety Engineer (if required);
- Conduct project meetings; Make site visits at regular intervals to monitor contractor's operations to determine if the work is proceeding in accordance with the agreed time-line;
- Prepare 'punch-lists' to correct deficiencies in work performed;
- Issue procedural change orders, as required, to reflect minor alterations in project scope as necessitated by field conditions;
- Perform balcony railings, terrace railings, roof railings, fire escapes, walkways and any other associated handrail assemblies inspection during construction administrative services;
- Sign-off completed construction, prepare and file final (up-to-date) compliance

- report with DOB and obtain necessary certificate of completion;
- Assist in clearing violations, if required;
 - Any other work that may required to fulfill the DOB requirements to file up-to-date compliance report.

Conditions of Eligibility

Consultants fulfilling the following conditions of eligibility and submitting the relevant documentary proof therein may only apply:

- Must have architectural as well as Project Management capability, registered with competent local authorities/professional bodies for carrying out Consultancy services of this nature. A copy of such registration must be enclosed as **Exhibit-1**.
- Must have minimum experience in this profession for the immediate last 10 years and must be authorized for taking up such consultancy works i.e. Comprehensive Professional Services for Architectural, Landscaping, Engineering, and Project Management etc. in New York. A certified copy of the registration certificate showing registration number, date of registration and its date of validity must be enclosed as **Exhibit-2**.
- Must have successfully executed at least three similar size works/projects within last 10 (ten) years which required comprehensive Consultancy services including putting together and coordinating a multidisciplinary team. Copy of award letter and completion certificate for each such projects must be enclosed as **Exhibit-3**.
- Must submit Audited financial statement of the firm for last three years showing annual turnover of the company as **Exhibit-4**.
- The firm must not have suffered loss in more then two of the last five financial years and must not have suffered loss in the immediate preceding financial year. Must submit balance-sheet for last 5 years as **Exhibit-5**.
- Should have sufficient number of Technical and Administrative Employees for rendering the consultancy services. A list of employees with details of their technical qualification and experience stating clearly how they would be involved in this project must be submitted as **Exhibit-6**.
- Additional information pertaining to association arrangement, if applicable, with other technical firms/professionals, commitment regarding adherence to professional Code of Ethics, liabilities, etc. may be submitted along with the application as **Misc. Exhibit**.

Stages and scope of Consultancy Services

Stage-I: Survey & Scope of work

- The Consultant shall conduct required survey/tests/investigations of the property to identify the works required to be undertaken, in consultation with the Permanent Mission of India to the UN.
- The Consultant will carry out the survey all areas of the property, approach and immediate surroundings of the property and prepare site plan and dimensional structural and architectural drawings based on site measurements and available drawings.
- If required, Consultant can engage specialists/consultants with prior approval of **Permanent Mission of India to the UN** for conducting necessary survey/tests/investigations, payment towards which will be made, in addition to the Consultancy fees, as per Para-5.
- The Consultant shall provide technical assistance to the Permanent Mission of India to the UN if site survey, soil investigation report, etc. are undertaken by the Permanent Mission of India to the UN.
- The Consultant shall submit a report to the Permanent Mission of India to the UN which should include:
Location of the defect(s)/damage(s), type of defect(s) /damage(s) like settlement/cracks/spalling/bulging/signs of seepage/rotting of wood, rusting of reinforcements etc.
Extent and severity of the defect(s)/damage(s),
Cause/source of defect(s)/damages(s),
report on structural condition and stability analysis of the existing building.
Any other issue considered relevant and necessary for proper execution of the project.
- Review the Design and if required, may suggest modifications in order to meet overall requirement of the Permanent Mission of India to the UN within local regulations framework.
On the basis of the Report, the Consultant shall define the scope of work, methodology to be adopted and other parameters of work, in consultation with the Permanent Mission of India to the UN.
Any other work considered necessary in the interest of the project and also for completion of this stage, as decided by the Permanent Mission of India to the UN or Government of India.
This stage will be considered as complete after the Consultant submits a detailed report.

Stage-II: Design, specifications & Estimates

- Specification of the repair/renovation works including the method statement and the material specifications and working drawings.
- Preparation of Design Development documents consisting of plans, elevations and details, materials and finishes, furniture and finishes etc. along with specifications
- Preparation of time-line for completing the identified works. The timeline shall consider undertaking multiple works in parallel, with the overall objective of reducing the completion period.
- Preparation of estimates of the work based on the scope of work, methodology, material specifications and other parameters relevant in preparing the estimates.
- Any other work considered necessary in the interest of the project and also for completion of this stage, as decided by the Permanent Mission of India to the UN or Government of India.
- This stage will be considered as complete after the Permanent Mission of India to the UN conveys acceptance/approval of the design, specifications and estimates.

Stage-III: Approvals & Documentation

- Prepare the design in the required format and with necessary details for obtaining approval of competent local regulatory authority.
- Tenders shall be invited for lump sum rates in ***One stage Two bids System*** (technical and financial bids in separate envelopes).
- Prepare the construction documents which shall include all drawing (detailed as well as working), specifications in respect of all aspects of the scope of work and design as also as per Building Permit issued by the Local Regulatory Authorities/ Department of Building Inspection (*if applicable*) and for tendering of the Construction Contract.
- Preparation of Documents for Tendering works which would indicate the project scope and design intent clearly. The eligibility conditions should include local mandatory conditions as well as conditions stipulated by the Permanent Mission of India to the UN, on behalf of Government of India. The conditions of Contract should ideally be as per approved Contract template of the Government of India, failing which, local practice shall be followed.
- In case the tender process is repeated, revised tender documents shall also be prepared, as directed by the Employer. No extra remuneration/ separate fee shall be payable to the Consultant for repeating the tender process/preparation of revised tender documents.
- Any other work considered necessary in the interest of the project and also for completion of this stage, as decided by the Permanent Mission of India to the UN or Government of India.

- This stage will be considered as complete after submission of ready-to-publish completed Tender Document to the Permanent Mission of India to the UN.

Stage-IV: Tendering

- Assist the Permanent Mission of India to the UN to finalise the tender documents and facilitate the Permanent Mission of India to the UN for inviting Bids on the basis of Single stage -Two Envelope System through the website of Permanent Mission of India to the UN, Central Public Procurement Portal (CPP Portal) of Govt. of India and also by giving wide publicity through local dailies and professional organisations/bodies.
- Assist the Permanent Mission of India to the UN during pre-bid meeting and site inspection by potential contractors.
- Processing requests for information or queries from potential Contractors and issuing design and clarification sketches as needed.
- Evaluate the Technical bids received from the bidders and submit recommendations for acceptance/approval of the Permanent Mission of India to the UN.
- Evaluate the Financial bids received from the technically qualified bidders and submit recommendations to the Permanent Mission of India to the UN.
- Any other work considered necessary in the interest of the project and also for completion of this stage, as decided by the Permanent Mission of India to the UN or Government of India.
- This stage will be considered as complete after the bid is accepted/approved by the Permanent Mission of India to the UN or Government of India.

Stage-V: Award of work, Mobilization

- Facilitate the Permanent Mission of India to the UN in issuance of award letter to the selected Contractor.
- Guide and facilitate the Permanent Mission of India to the UN in signing the contract with the selected Contractor.
- Guide and facilitate the Permanent Mission of India to the UN in understanding the financial claims, liabilities and other issues relating to the financial aspect of the contract.
- Guide and facilitate the Permanent Mission of India to the UN in taking custody of Bank Guarantees, Bonds, etc, as applicable and explain the responsibilities of the Permanent Mission of India to the UN in respect of those.
- Any other work considered necessary in the interest of the project and also for completion of this stage, as decided by the Permanent Mission of India to the UN or Government of India.

- This stage will be considered as complete after set of Good for Construction (GFC) drawings and other relevant necessary information/ documents are issued to the Contractor for starting the execution of the project.

Stage-VI: Project Management Consultancy

- The Consultant shall, in consultation with the Permanent Mission of India to the UN, prepare a Time Schedule in respect of various services to be rendered.
- The Consultant shall also advise the Permanent Mission of India to the UN on the program of work, i.e., PERT/CPM/Bar Charts of the services to be rendered by the contractor on the said project. While preparing the time schedule, the Consultant would take all necessary precautions, so that there is no time and cost overrun of the project.
- Continuous on-site management of the work schedule. Attend meetings at intervals appropriate to the stage of the Contractor's operations.
- Daily observation and quantification of the work, Periodic observation of the progress of construction and conformance with design intent and on-site meetings with the Contractor.
- Quality Assurance of shop drawings, product and materials submittals, for conformance with the tender documents.
- Review and approval of Certificates for payment by the Permanent Mission of India to the UN from the Contractor.
- Listing of items to be modified/corrected by the Contractor including one back-check will be provided.
- In case the Contractor submits hindrance statement in support of delay in execution of the work, Consultant shall endorse and verify the statement before submission to the Permanent Mission of India to the UN.
- Certification of additional works/variations along with justification, financial implications and submit variation statements to the Permanent Mission of India to the UN.
- Building Permit revisions, if required, for changes during the course of construction.
- Review & provide a set of Record Documents like; construction documents with the incorporation of major design modifications made during the Construction phase and co-ordinate for submission of as-built drawings and facilitate handing-over of all product manuals to the Permanent Mission of India to the UN after their due commissioning by the Contractor.
- Recommend issuance of Completion Certificate to the Permanent Mission of India to the UN for physical as well as financial closure of the work.
- Inspect and identify defects prior to the expiry of Defect Liability Period, warranty claim; advise corrective measures and get the rectification of all defects

through concerned contractor/s thereof to full satisfaction of the Employer and issue a certificate of final Completion of work after rectifying all defects to the satisfaction of the Mission.

- Any other work considered necessary in the interest of the project and also for completion of this stage, as decided by the (Name of the Mission/Post) or Government of India.
- This stage will be considered as complete after issuance of completion certificate and financial closure of the accounts of the Contractor.

Payment terms and conditions

The Consultant shall be entitled for payment of fees as percentage (*as quoted in the financial bid*) of the estimated cost or actual project cost derived at through tender process, whichever is lower. This payment shall be excluding VAT, taxes, etc.

Retention Money/Security Deposit: 10% of the Consultancy Fee shall be held back from each payment, as Retention Money. Half of this 10% of the Consultancy fee shall be released after one month of issue of completion certificate to the Contractor and remaining Half shall be released after one year from that date.

Currency: The currency of payment shall be US Dollars.

The payment will be made after successful realization of objectives at each stage as detailed below:

On completion of Stage-I	:	<i>(To be indicated in appropriate currency to be calculated by the Mission/Post as 1% of the rough cost of project, as envisaged)</i>
On completion of Stage-II	:	<i>(Total of Stage-I & Stage-II payment should not be more than 25% of the approved estimates of the project)</i>
On completion of Stage-III	:	<i>(10% of the approved estimates of the project)</i>
On completion of Stage-IV	:	<i>(15% of the tendered cost or the estimated cost of the project subject to adjustment of previous payments accordingly. Total payment at till this stage shall not exceed 50% of entitled payment)</i>
On completion of Stage-V	:	<i>(10% of entitled payment)</i>
On completion of Stage-VI	:	<i>(Balance payment due)</i>

Payment of reimbursable

- In addition to consultancy fees specified above, the Consultant will be reimbursed actual expenditure incurred, on rendering the following services:-
- Soil Test, Laboratory tests, investigations, site survey or any other investigation report or any other services required for the project.
- Any other items of works, if deemed necessary with the prior approval of **Permanent Mission of India to the UN.**
- Any tax levied by law, as applicable.
- The Permanent Mission of India to the UN can also make direct payment/ reimbursement to the concerned agencies through which the services are organised/rendered and Consultant shall fulfill their obligations.
- The Consultant would **not** be entitled for reimbursement of expenditure towards stationary, transport, incidental expenditures, communications (telephone, internet etc.), site office, equipment, etc. which are part and parcel of administration of the Consultant's services.

General terms and conditions

- Consultant shall arrange his own transportation, office, computer and communication facilities.
- Consultant may engage other sub-consultants for specialized works, which are part of his responsibility, at his own cost and convenience. No payments will be reimbursed for them by the Permanent Mission of India to the UN.
- Consultant shall coordinate with the Permanent Mission of India to the UN and Contractor for completion of the work.
- Consultant shall obtain professional liability insurance or any other insurance for his workmen, staff, as may be required, at his own cost.
- The fees quoted, should exclude all taxes such as VAT, service tax, professional tax, etc.
- Price escalation in rates due to any reason such as increase in prices of material, equipment & labour, fuel (petrol, diesel, gas, etc.) electricity & water, levy of new taxes, hike in any tax rates, cess or due to delay in completion etc. shall not be acceptable the Permanent Mission of India to the UN.
- Consultant shall not be permitted to participate in bidding for this work i.e., Consultant cannot become Contractor for this work.

Time Schedule

- The work shall be carried out by the Consultant with due expedition and in accordance with the time schedule.

- The time schedule so agreed upon, shall be deemed to be the essence of the contract on the part of the Consultant.

Performance Security:

Performance security @ 5% of consultancy fee in the form of Bank Guarantee shall be deposited within 15 days of issue of Letter of intent. Letter of award of work shall be issued on receipt of Performance Guarantee. The Performance Guarantee shall be released after sixty (60) days on record of satisfactory practical completion of work.

Compensation for Delay

- In the event of failure of the Consultant to complete the assigned work within the stipulated time period and in case the work is delayed and the delay is attributed to the Consultant, the Consultant will pay penalty to the Permanent Mission of India to the UN.
- The amount of such penalty shall be calculated @ 0.5 percent of the total consultancy fees payable for delay of each week, subject to maximum of 10 percent of the total consultancy fees.

Abandonment of Work

- If the Consultant abandons the work for any reasons whatsoever or becomes incapacitated from acting as Consultant, the Mission may make full use of all or any of the drawings prepared by the Consultant.
- The Consultant shall be credited with all fees and expenses logically and reasonably payable up to the date of abandonment.
- In case of willful abandonment of the project by the Consultant, the Permanent Mission of India to the UN shall have the right to withhold all consultancy and management fees and claim damage flowing from such abandonment equitably assessed by the Permanent Mission of India to the UN.

Suspension

- The Permanent Mission of India to the UN may suspend all or part of the services by giving a notice to Consultant and Consultant shall immediately make arrangement to stop the services and shall not make any further expenditure from his end.
- On suspension of the Consultant's appointment, the Consultant shall be entitled to fees for all completed stages of work at that time.

- On the resumption of suspended service within six months, previous payments shall be regarded solely as payments on account towards the fees. No claim for additional fees on any account would be entertained.

Termination

- If the Consultant, without good reasons, is not discharging his obligation, the Permanent Mission of India to the UN may inform the Consultant by notice, stating the grounds for the notice.
- If a satisfactory response is not received within 21 days, the Permanent Mission of India to the UN may by a further notice, terminate the agreement provided that further notice is given within 35 days of the formal notice.
- In the event of termination of the agreement by the Permanent Mission of India to the UN the Consultant shall have no claim to compensation for any loss sustained by reasons entered into any engagement or made any advance on account or with a view to perform the consultancy work.
- The Consultant shall not be entitled to be paid any sum for any work thereof or actually performed under this agreement unless or until the Permanent Mission of India to the UN is satisfied with the performance of such work and the value payable in respect thereof and the Consultant shall only be entitled to be paid the value so certified by the Permanent Mission of India to the UN.

Arbitration

- If any dispute, difference or question at any time arises between the Mission and the Consultant in respect of the agreement signed which cannot be settled mutually or in case of termination as described in clause 11, shall be referred to arbitration.
- The arbitration proceedings will be conducted in accordance with and be subject to AIA Arbitration Rules, as amended from time to time and the decision of the arbitrators as mentioned above shall be final and binding on the parties.
- The Arbitration will have its sittings in New York.

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Instructions

Site visit: Physical visit to the site is advisable to have a general idea about the extent of works required and the amount of involvement by the Consultant. Interested firms can visit the site from 10 am to 5 pm on 20 May 2019 after prior appointment with Attache (Property), Permanent Mission of India to the UN, 235 East 43rd Street, New York, NY 10017 Tel: 212-490-9671, Email: property@indiaun.net

Submission of bids: Consultants shall submit their credentials and the price bid in separate sealed envelopes.

Envelope A: Should contain the Exhibits 1 to 6 and Misc. Exhibit, as mentioned in the RFP Notice. This envelope is to be super-scribed as “**Technical Bid**”.

Envelope B: Should contain the form of tender on which the bidder should quote their fees in percentage of estimated or actual project cost, whichever is lowest. This envelope should be super-scribed as “**Financial Bid**”.

Envelope C: Should contain Earnest Money Deposit or Bid Securing Declaration

Envelope D: Should contain the above three envelopes A, B and C superscribed with **Facade Repair and Filing Local Law 11 Compliance Report** for Permanent Mission of India to the UN.

Fees: Please note that the Offer of Fee (in sealed envelope B) must quote a percentage of the project cost, which will be either the estimated cost or the tendered cost, whichever is lower. The last date of submission of sealed bids is 1700 hrs on 31 May 2019 in the office of The Head of Chancery, Permanent Mission of India to the UN, 235 East 43rd Street,

New York, NY 10017 Tel: 212-490-9671, Email: property@indiaun.net.

Selection process: Envelope A (Technical bids) will be opened on 1100 hrs on 6 June 2019 in the Permanent Mission of India to the UN. Applicants may send their representative to be present during opening of bids after obtaining prior permission from the Permanent Mission of India to the UN. The technical eligibility credentials of all the bidders shall be evaluated first. Failure to submit requisite documents will render the applicant ineligible. A list of technically qualified bidders shall be prepared. Technically qualified bidders shall be informed and shall be invited for opening of the financial bids at prescribed date and time by the Permanent Mission of India to the UN.

Errors and rectification: If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and the quantity, the unit price shall prevail and the total price shall be corrected accordingly. If there is discrepancy between words and numbers, the amount in words will prevail.

Permanent Mission of India to the UN reserves the right to accept or reject proof of credentials at its sole discretion without having to furnish reasons thereof, to the applicants. Submission false information/document shall render the applicant ineligible.

The selected Consultant shall be formally informed about the selection by the Permanent Mission of India to the UN and the Consultant shall be required to sign an agreement with the Permanent Mission of India to the UN within 10 days of issuance of such information. A draft of the agreement is enclosed along with the RFP.

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FINANCIAL BID

Gentlemen,

I/We, the undersigned, am/are willing to enter into a contract and provide Consultancy services in full and in accordance with the requirement of work by the Permanent Mission of India to the UN after site visit, to the entire satisfaction of the Permanent Mission of India to the UN for the sum stated below:

----- % (***to be written in words***) of the project cost, which will be either the estimated cost or the tendered cost, whichever is lower, shall be payable as Consultancy fees for the entire consultancy period for providing Consultancy Services including all works mentioned from Stage-I to Stage-VI of the tender document (excluding taxes, duties, etc.) to the satisfaction of the Permanent Mission of India to the UN

I/We, agree that this offer will remain valid for a period of 180 (One Hundred and Eighty) Days from the date of Opening of bids.

DATE:

PLACE:

NAME:

SIGNATURE:

ADDRESS:

TEL/FAX:

EMAIL ADDRESS:

**GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS**

**AGREEMENT FOR
CONSULTANCY SERVICES**

FOR

Facade Repair and Filing Local Law 11 Compliance Report

BETWEEN

Permanent Mission of India to the UN, New York

AND

(M/s. Name of the Consultant)

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This Agreement (hereinafter referred to as `AGREEMENT') is drawn on _____, 2019 at Permanent Mission of India to the UN, New York

By and Between

Permanent Mission of India to the UN, New York (hereinafter referred to as `Employer' which expression shall unless repugnant to the context on meaning thereof be deemed to include its successors and assigns) on the First Part

AND

M/s. (Name of the Consultant) (hereinafter referred to as `Consultant', a company registered in ____ (to be indicated by Mission) and having its registered office at No. ____ (to be indicated by Mission).

WHEREAS

Permanent Mission of India to the UN, New York intends to engage a Consultancy agency for **ARCHITECTURAL SERVICES / PROJECT MANAGEMENT** (hereinafter referred to as 'the Services') for **Facade Repair and Filing Local Law 11 Compliance Report** (hereinafter referred to as `the Project').

It is agreed by each of the party that the Consultant will act as its representative to do or execute all acts and things, in connection with this AGREEMENT.

Permanent Mission of India to the UN, New York agrees to engage Consultant for performing such services:

Now this AGREEMENT witnesseth and it is hereby mutually agreed by and between the parties as follows:

SECTION 1: DEFINITIONS:

For the Purpose of this AGREEMENT, unless otherwise specified or repugnant to or inconsistent with the subject, content or meaning thereof, the following terms shall be deemed to have the following meanings:

'AGREEMENT' shall mean this AGREEMENT including all sections, annexures and appendices hereto and all documents herein attached and amendments to be made to the 'AGREEMENT', if any, which the parties may hereafter mutually agreed in writing.

'Date of Acceptance' shall mean the date on which Employer confirms written acceptance to Consultant's SERVICES.

`Consultant' shall mean **M/s. (Name of the Consultant)** as company registered in ____ (to be indicated by Mission) having its registered office at _____ (to be indicated by Mission).

`Parties' shall mean **Permanent Mission of India to the UN, New York** and

M/s. (name of the Consultant) collectively.

`Services' shall mean the responsibilities to be discharged by the Consultant for fulfilling its obligations under this AGREEMENT as defined under Section 4 `SCOPE OF SERVICES' of this AGREEMENT.

`Architect' shall mean **M/s (name of the Consultant)**.

`EOI' shall mean Expression of Interest document issued by the Employer.

`RFP' shall mean Request for Proposal document issued by the Employer.

`LOI' shall mean Letter of Intent issued by the Employer.

`Estimated cost of a package' would mean the cost estimate prepared for a package using the tender quantities given by the Architect/Consultant and approved by the Employer.

`Estimated Project Cost' would mean the estimated Construction cost as per the Detailed Project Report submitted by the Architect/Consultant and approved by the Employer.

`Executed cost of a package' shall mean the value of awarded contract adjusted for any revision in scope and any cost variations.

SECTION 2: AGREEMENT DOCUMENTS :

The following documents shall be deemed to form and be read and construed as an integral part of the AGREEMENT:

2.1 RFP document issued by the Employer. (Annexure–1) **(Enclosed)**

2.2 Consultant's proposal No.....dated..... **(To be indicated by the Permanent Mission of India to the UN, New York** along with all the submissions and enclosures (Annexure – 2).

2.3 Bank Guarantee for performance security (Annexure – 3) **(To be enclosed by the Permanent Mission of India to the UN (To be submitted by the Consultant at the time to signing the Agreement)**

2.4 Correspondence between Consultant and the Employer. (Annexure – 4) **(To be enclosed by the Permanent Mission of India to the UN vide letter Nos. ___ dated ___, 2018 (Enclosed).**

2.5 LOI issued by the Employer vide letter No. ___ dated ___ 2018 **(To be indicated by the Permanent Mission of India to the UN, New York)** (Annexure – 5) **(Enclosed).**

The above documents combined together are enclosed to this AGREEMENT as Annexures. The aforesaid documents shall be taken as complementary and mutually exploratory of one another.

SECTION 3: EFFECTIVE DATE OF AGREEMENT :

3.1 Notwithstanding the date of its execution, the AGREEMENT shall be deemed to have come into force with effect from ___ day ___ month ___ year.

SECTION 4: SCOPE OF SERVICES :

4.1 The scope of Services shall be as per Section 3 of RFP document referred to in Section 2 of this AGREEMENT.

SECTION 5: REMUNERATION :

5.1 For the scope of services identified under Section 4 of this AGREEMENT, the Employer shall pay the fees to the Consultant as follows:

Particulars	Fee in % of estimated project cost or actual cost whichever is less
CONSULTANCY SERVICES FOR <i>Facade Repair and Filing Local Law 11 Compliance Report</i>	Consultancy Fee @ _____% of the estimated cost or actual cost of the project, whichever is lower.

- Note:**
1. The said fee is exclusive of VAT/ Service Tax.
 2. If the project duration extends beyond the time schedule as per Section 14, the Consultant agrees to provide services to the extended time schedule and the fee for the services for the extended period shall be governed as per Clause ____ of the RFP document referred to in Section ____.
- 5.2** The Consultant shall be jointly and severally responsible for the successful performance of the scope of services as per this contract.

SECTION 6: TERMS OF PAYMENT :

6.1 The Consultant shall be entitled for payment of fees as percentage (as *quoted in the financial bid*) of the estimated cost or actual project cost derived at through tender process, whichever is lower. This payment shall be excluding VAT, taxes, etc.

6.2 The fee to be Consultant, indicated in Section 5 of this AGREEMENT, shall be paid in the following stages. Payments made to the Consultant for various stages shall be running account bills and shall be adjusted against the final fee payable. The payments will be made after successful realization of the objectives at each stage as detailed in RFP.

(To be indicated by the Mission/Post as per final RFP document)

6.3 Retention Money: 10% of the Consultancy Fee shall be held back from each payment. Half of this 10% of the Consultancy fee shall be released after one

month of issue of completion certificate to the Contractor and remaining half shall be released after one year from that date.

6.4 Payment of reimbursable

6.4.1 In addition to consultancy fees specified above, the Consultant will be reimbursed actual expenditure incurred, on rendering the following services:-

- i) Soil Test, Laboratory tests, investigations, site survey or any other investigation report or any other services required for the project
- ii) Any other items of works, if deemed necessary and agreed to by both parties.
- iii) Any tax levied by law, as applicable
- iv) The (***Name of the Mission/Post***) can also make direct payment/ reimbursement to the concerned agencies through which the services are organised/rendered and Consultant shall fulfill their obligations in terms of Para-3.1.4.

6.4.2 The Consultant would **not** be entitled for reimbursement of expenditure towards stationary, transport, incidental expenditures, communications (telephone, internet etc.), site office, equipments, etc. which are part and parcel of administration of the Consultant's services.

6.5 As early as possible but not later than fifteen (15) working days of completion of a stage, the consultant shall submit invoices along with appropriate supporting documents for claiming the fee due.

SECTION 7: TAXES AND DUTIES :

7.1 The Remuneration indicated in Section 5 is exclusive of the service tax.

SECTION 8: PERFORMANCE GUARANTEE AND LIMITATION OF LIABILITY:

- Consultant shall carry out the Services in conformity with generally accepted norms and sound standards of engineering. Consultant shall be responsible for the technical soundness of the services rendered. In the event of any deficiencies in these services, the consultant's liability shall be limited to promptly redoing such services. The Employer shall not be required to pay additional compensation to the consultant for such re-done services.
- Consultant shall, in order to safeguard the interests of the Employer, endeavour to incorporate appropriate provisions in the specifications for purchase of equipment/appointment of contractors to ensure that the equipment suppliers/ contractors provide the necessary guarantees of performance. Consultant's obligations in this regard shall be limited to providing technical assistance to the Employer in procuring such guarantees.
- The overall total liability of Consultant arising out of this Agreement for conclusively proven lapse of the Consultant in executing his scope of services as defined in Section 4 of the Agreement or any subsequent change thereof shall be limited to a maximum five per cent (5%) of the remuneration mentioned in

Section 5 above.

- Without prejudice to the generality of the above person, the liability clause will be involved to ensure timely delivery of services by the Consultant, as per time schedule of the project that will be finalized by mutual agreement between Consultant, Employer & Architect, 0.5% per week of fee of Consultant will be deducted for per month delay of delivery of services as per time schedule, subject to a limit of 10% of total fee as provided in the clause provided it is conclusively proven that such delay is attributable to the Consultant within its responsibility in the scope of services as defined in Section 4 of the Agreement.

SECTION 9: DRAWINGS AND DOCUMENTS :

- Consultant shall carry out the review work indicated in Section 3 of RFP document based on the drawings provided by the Employer.

SECTION 10: DOCUMENTS/INFORMATION TO BE PROVIDED :

- The scope of services, as detailed in the RFP document indicated in Section 2 of this AGREEMENT, is based on the understanding that Employer shall provide all necessary data/document/information to the Consultant, which shall be the base information/input, relied upon by the Consultant for rendering the services.

SECTION 11: FORCE MAJEURE :

- In the event that either party is prevented wholly or in part, by any force majeure cause, as defined hereinafter from performing or accepting performance by the other party, the parties will either agree to a fresh completion date by condoning the period of delay arising out of such non-performance or may by mutual consent, treat the contract as terminated. However, if the force majeure conditions persist for an unreasonably long time, the party not under force majeure conditions may, by giving a notice to the other party, terminate the contract. In either case of termination, both parties will have no claim for compensation against each other, but shall receive their dues as prevailing on the date of commencement of force majeure conditions. Force Majeure is herein defined as:

- Any cause which is beyond the reasonable control of the Consultant or Employer
- Natural phenomena including but not limited to weather conditions, fire, explosion, flood, drought, earthquake and epidemic.
- Acts of any Governmental authority, domestic or foreign, including but not limited to war declared or undeclared, priorities, guarantees, endangers, licensing controls or production or distribution restrictions;

- Disruption in communication;
- Strikes and lockouts;
- Sabotage, riot, civil commotion, invasion and insurrection.

SECTION 12: ARBITRATION :

- In the event of any dispute or difference arising at any time between the parties relating to the construction; meaning or effect of this AGREEMENT or any other cause or any content of the rights and liabilities of the parties or other matters specified herein or with reference to anything arising out of or incidental to this AGREEMENT or otherwise in relation to the terms; whether during the continuance of this AGREEMENT or thereafter, such disputes or differences shall be endeavoured to be solved by mutual negotiations.
- If, however, such negotiations are infructuous, Arbitration shall be carried out as per provisions of AIA. The venue of arbitration shall be New York.
- Any reference to arbitration shall not relieve either party from the due performance of its obligations under this AGREEMENT.

SECTION 13: OWNERSHIP OF DOCUMENTS :

- All the drawings, reports and documents reviewed by the Consultant in the performance of the AGREEMENT shall at all stages be and remain the property of the Employer and while in the custody of Consultant shall be fully available to Employer and its duly authorized representatives. On completion of assignment, all the reviewed drawings etc. shall be delivered by the Consultant to the Employer.

SECTION 14: TIME SCHEDULE :

Subject to Section 20.1, the time period for completion of the Services which shall be carried out by the Consultant/Project Manager and their Local Sub Consultants with the due expedition and strictly in accordance with the time schedule, which is as per the contractor's work i.e up to ___ **(to be indicated by the Mission)** months or till completion of the work whichever is later.

SECTION 15: TERMINATION :

- Under overall circumstances, if the Employer terminates the Agreement either in whole or portion thereof, Consultant shall be compensated for the services carried out till the date of termination, less any disputed amount. The Employer shall discuss in detail with Consultant to exhaust all possibilities of Consultant not being able to deliver its services before applying the termination clause.

SECTION 16: INDEMNITY :

Subject to Section 8.3, Consultant shall be liable for and shall defend indemnify

and hold Employer, its officers, agents and employees free and harmless for all losses, injuries, claims, demands, liens and judgements of any description arising out of performance or non-performance of this Agreement to the extent that such losses, injuries, claims, demands, liens and judgements are the result of an actual or alleged error, omission or negligent act of the Consultant or any person employed or agent engaged by the Consultant, unless such injury / damages are caused by the Employer's personnel.

SECTION 17: LANGUAGE AND MEASUREMENT :

- The English language will be used in all written communications, data drawings and documents exchanged between the Employer and Consultant with respect to the services to be performed. All reports, drawings, documents and other technical information procured or prepared by Consultant shall employ metric units of measurements. Gregorian calendar will be followed for the execution of the AGREEMENT.

SECTION 18: ADDITIONAL SERVICES :

- Consultant shall make available on the Employer's request such services as may be mutually agreed between the Employer and Consultant in addition to those described in this AGREEMENT. The terms and conditions for such additional services shall be mutually agreed upon between the Employer and the Consultant.

SECTION 19: MODIFICATIONS TO AGREEMENT :

- Should circumstances arise which call for modifications of the AGREEMENT, these may be made by mutual consent given in writing. Proposal in this respect from one Party shall be given due consideration by the other Party.

SECTION 20: VALIDITY OF AGREEMENT :

- This AGREEMENT shall without prejudice to the provision of Section 11 (Force Majeure) and Section 16 (Termination) remains in force till the successful commissioning of the project which is expected as per the **contractor's work i.e. ___ (To be indicated by the Mission) months** or till completion of the work whichever is later.
- If, however, due to some unavoidable reasons the successful commissioning of the project gets delayed, the validity of the agreement, as provided in Section 14.1 may be suitably extended by way of an amended agreement duly executed by the parties' up to ___ **months, or till completion of the work whichever is later.**

SECTION 21: APPROVALS :

- Any approvals to be obtained by either party from the other under this AGREEMENT shall not be unreasonably denied or withheld.

SECTION 22: CO-OPERATION BETWEEN PARTIES :

- The Employer shall nominate an officer to represent it for the purpose of this AGREEMENT and the name, designation and address of the officer so nominated shall be intimated to Consultant. Similarly, Consultant shall nominate and intimate in writing particulars of an officer to represent it.
- The officer nominated by the Employer and by Consultant shall be fully authorized to give and receive instructions and decisions which shall be deemed to have been given by the Employer and Consultant respectively who shall be bound by such decisions and instructions given/received by their nominated officers. It is, however, understood and agreed to by and between the parties hereto that the parties shall work in close co-operation with each other at all times in order to ensure timely completion of the project.

SECTION 23: ENTIRE AGREEMENT :

- This AGREEMENT constitutes the entire AGREEMENT by and between the parties. Each party to this Agreement by its execution acknowledges that the parties jointly prepared this Agreement hereto. There are no understandings, agreements or representations not specified in this Agreement.
- All previous AGREEMENTS and communications relative hereto is superseded unless otherwise incorporated hereto.

SECTION 24: CONFIDENTIALITY :

- This Agreement, all communications and information obtained by Consultant from the Employer relating to this Agreement, and all information developed by the Consultant under this Agreement are confidential. Except as provided by law or with prior written consent of the authorized representative of the Employer, the Consultant shall neither divulge to nor discuss with any third party either the work and service provided hereunder, or any communication or information in connection with such services or work.
- Consultant shall not publish or cause to disseminate through any press / media release, public statement or marketing or selling effort any information which relates to this Agreement without the prior written approval of the Employer.

SECTION 25: REPRESENTATIONS, WARRANTIES AND DISCLAIMERS :

- The Consultant represents and warrants to the client that:
- It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby.
- This Agreement constitutes its legal valid and binding obligation enforceable against it in accordance with the terms hereof.

- It is subject to Laws of ***(name of the country to be indicated by Mission/Post)*** with respect to this Agreement and it is hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof.
- There are no actions, suits, proceedings or investigations pending or to the Consultants knowledge, threatened against it at law or in equity before any court or other judicial, quasi-judicial or other authority the outcome of which may result in the breach of or constitutes a default of the Consultant under this Contract or materially affect the discharge by the Consultant or its obligations under the Agreement.
- No representation or warranty by the Consultant contained herein or any other document furnished by the Employer contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make representation or warranty and misleading.

SECTION 26: WAIVERS :

- No waiver of any condition, requirement or right expressed in this Agreement shall be implied by any forbearance of the Employer to declare a default or failure to perform or to take any other action on account of the violation of such condition if such violation be continued or repeated.

SECTION 27: SEVERABILITY :

- If for any reason any provision of the Contract is, or becomes invalid, illegal or unenforceable or is declared by any Court of competent jurisdiction or any other instrumentation to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearby as possible. Failure to agree upon such provisions shall not be subject to dispute resolution under the Contract or otherwise.

SECTION 28: SURVIVAL :

- The termination of this Agreement shall not relieve the Consultant or the Employer of any obligations hereunder which expressly or by implication survive Termination hereof.
- Except as otherwise provided in any provision of the Contract expressly limiting the liability of either party shall not relieve either party of any obligations or liabilities for loss or damage to the other party arising out of or caused by acts of omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

SECTION 29: NOTICES :

- All notices to be given by either Party to the other in connection with rights and obligations of both Parties under or pertaining to this AGREEMENT shall be sent by post, postage prepaid or by courier and if given by facsimile, e-mail, telephone or verbally, they shall be confirmed by registered letter or courier and addressed as follows :

Permanent Mission of India to the UN, 235 East 43rd Street, New York, NY 10017

And

M/s. (name of the Consultant) (Full address of the Consultant).

- Either party may change individuals designated to receive Notices or addresses and in such an event, notices shall be given to the other Party by means of a written Notices of any such change.

IN WITNESS WHEREOF the parties hereto have executed these presents the day and year first above written

For Permanent Mission of India to the UN

For M/s. (Name of the Consultant)

(Signature)

(Signature)

Name:

Name:

Designation:

Designation:

Witness:

Witness:

1.

1.

(Signature)

(Signature)

Name:

Name:

Designation:

Designation:

2.

2.

(Signature)

(Signature)

Name:

Name:

Designation:

Design